

**HAMPTON CONSERVATION COMMISSION PUBLIC HEARING
DECEMBER 18, 2014
MINUTES**

PRESENT:

Jay Diener, Chair
Peter Tilton, Vice Chair
Barbara Renaud, Clerk
Diane Shaw
Sharon Raymond
Pat Swank, Alternate
Gordon Vinther arrived at 7:30 pm

Also Present: Rayann Dionne, Conservation Coordinator
Ann Carnaby, Planning Board Representative

CALL TO ORDER:

The meeting was called to order at 7:00 p.m. by Chairman, Jay Diener, in the Town Hall Lobby.

CONSIDERATION OF MINUTES:

MOTION: Mr. Tilton moved to approve the November 25, 2014 minutes, as edited.

SECOND: Ms. Swank

VOTE: 5 in favor, 1 abstain (Ms. Shaw)

MOTION PASSED

APPOINTMENTS:

1. Cindy Willis – Victory Garden Update

Ms. Willis provided the Commission with a copy of the 2014 Hampton Victory Garden Tenant Agreement for amendment as well as a plot plan of the current garden layout and the plan for 2015 which includes adding new plots. She also provided a sample flyer for a proposed fund-raising effort. She said there is a waiting list of 7 Hampton residents, which is unusual at this time of year given there has been no publicity about the garden. Seven is a healthy number, she said. She spoke of the proposal to increase the plot fee to \$25.00 from \$20.00. She believes this is a fair amount for the use of the land and water. Fees, at the beginning were \$15.00 per lot, increased to \$20.00 in the late 1990's. She commented that a charge could be added in the middle of the summer if water bill was higher because the rates increased or more water than normal was used. Mr. Diener stated that he feels \$25.00 is reasonable and would prefer that only one fee is assessed.

Ms. Willis stated that a water bill is received monthly, therefore she has a good indication of water costs. Mr. Diener stated he would rather see a higher fee at the beginning of the season and not charge additionally for water in mid-season.

Ms. Willis also addressed the issue of having more than one person in a household having a plot. She would like to add to the Tenant Agreement that there will be one garden per Hampton resident address. She noted there is always a wait list and one garden per resident address is easier. She questioned if she could make the change in the Agreement. Mr. Diener said he would check with the Town Attorney and that this amendment would have to be approved by the Board of Selectmen. Mr. Diener suggested she make the changes to the

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agreement, as proposed, and the Commission will present them to the Board of Selectmen for approval so there would be no questions in the future.

Mr. Diener questioned why growing of corn is not allowed. Ms. Willis stated that it is because the corn shades other gardens.

Ms. Willis also spoke to the proposed fund raiser and was informed that this would have to be approved by the Board of Selectmen in that their approval is necessary to receive funds. Ms. Renaud said that once one collects funds, it would go into the Victory Garden checking account. Statements go to the Town Accountant on a quarterly basis and a summary is necessary for the funds received.

Ms. Willis said that more organization is necessary before finalizing the fund raising efforts. She also noted that she will be in Florida for a period of time this winter and would like to have a co-coordinator on board while she is away. This would be a benefit, she noted. Mr. Diener suggested that Ms. Willis find a co-coordinator and let the Commission know who this will be.

MOTION: It was moved by Mr. Tilton to present the Amended Tenant Agreement to the Town Attorney for review, followed by presentation to the Board of Selectmen for approval.

SECOND: Ms. Renaud

VOTE: 5 in favor, 1 abstain (Mr. Diener)

MOTION PASSED

2. Carl McMorran, Aquarion Operations Manager – Discussion of potential land conservation opportunities.

Mr. McMorran stated that there are opportunities to preserve some existing open spaces by the wells on Little River Road and Woodland Road. He noted that a recent subdivision project on Woodland road has been approved and that is very close to a high production well. Through the process at the Planning Board, awareness was raised of the impact of development on the water supply wells. He stated that one needs to be more proactive in protecting land around the wells. He is proposing securing key parcels so they will stay undeveloped. This is a substantial task/effort that is dependent on the private land owners, funding sources, and local partnerships.

He is requesting feedback with regards to a mutual long term interest and approaching landowners. Mr. McMorran provided maps to highlight key parcels which were reviewed by the Commission. He noted there are two options which include Conservation Easements or parcels available for purchase by Aquarion.

He would like the Conservation Commission and Aquarion to make contact with landowners in order to initiate conversations. Mr. Diener questioned the intent, whether it is to protect the land from development, for protection of Aquarion wells, or for future well development. Mr. McMorran stated that it is not known what the future will bring, but he wants to keep the wells protected. He spoke of the Twelve Shares for well development which was explored a few years ago but to gain access to those parcels was too costly. However he noted that any new well must be consistent with the water supply regulations. Further, roads are needed for access to the wells. There is an argument for preserving the land in that one must look to the local sources in the years ahead. It was noted the Planning Board favors protecting well areas.

Mrs. Dionne stated that some of the parcels do have existing houses and, unless there is a willingness to subdivide, a Conservation Easement is the only way to protect the areas. There may be people more inclined to protect the habitat. Both should be addressed for potential benefits. She stated that perhaps a letter to land owners asking their opinions would be a good start. Mr. McMorran stated that Aquarion is not in favor of

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taking away private property by regulation. Mr. Diener stated that there are State standards for zone control and wells are not permitted without this zone control. Mrs. Dionne commented that there is acreage on Little River Road with the potential to preserve 33 acres in that area. There is also section of a Conservation Easement in that area.

Mr. Vinther joined the meeting.

Mr. Diener stated that it is preferable that Conservation Easements have public access, if feasible. Further that the Commission is interested in working with Aquarion when approaching critical parcels. First, it will be necessary to approach the property owners to see if they are interested. Also, easement vs ownership would be pursued in that ownership would have financial costs. He also noted that if easement documents are well written the property would be well protected.

Ms. Raymond noted that it is hard to accept easements that encompass a great deal of privately owned parcels of land. Mr. Diener said that, without specifics, the Commission would be interested in pursuing; however, it should be determined if it is in the interest of conservation or the interest of Aquarion. Ms. Raymond also stated that this is in the interest of protecting water and is a conservation effort.

Mr. Diener asked if the Commission is in favor of working with Aquarion on this proposal, and the Commissioners agreed that there should be a strategy developed for moving forward.

NEW APPLICATIONS:

- 1. 18 Hutchinson Drive, 18 Hutchinson Dr. LLC, Agent – Lyman McCrea, Reconfiguration of the driveway and grading to reduce basement flooding. This is a Town Special Permit.**

This is a continued discussion on the reconfigured driveway.

Mr. McCrae stated that he is before the Commission seeking permission for driveway amendments. He stated he added more hot top to the driveway in order to reduce basement flooding. He stated he listened to the suggestions of the Commission at prior meetings and, at this time, believes he has accomplished everything the Commission was looking for.

Mrs. Dionne stated a second site visit was held on Saturday, focusing on the driveway. There is pavement outside of the 50 foot buffer and the grade is at 1%. The remaining fill area inside of the buffer needs some fine tuning that remains to be done. Further, Mr. McCrea took a video during a heavy rain showing the amount of running water that flows onto this parcel. Ms. Dionne noted that the addition of the barrier will be key.

Mr. Diener asked about the barrier, and Mr. McCrea stated it would be made up of hearty shrubs which will be fast growing and would survive the snow being plowed up to the barrier.

PUBLIC COMMENT: There was no public comment.

MOTION: Mr Tilton moved to recommend the Planning Board grant the Town Special Permit for the property located at 18 Hutchinson Drive with the following stipulations:

- Lawn care must follow the guidelines set forth in the NHDES Shoreland Protection Act (Env-WQ 1400). No storage of grass clippings or yard waste in the wetland or its buffer;**

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- **Removal of trees that are not dead, diseased, or unsafe must be performed in compliance with NHDES Shoreline Protection Act, Section Env-Wq 1403.05;**
- **All proposed plantings shall have at least 75% success after two (2) growing seasons. Any plants that do not survive shall be replanted or replaced with another suitable plant species;**
- **Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction complete.**
- **The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed;**
- **There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown on the approved plan. A new Special Permit is required for the erection of any additional structure(s) in the buffer.**
- **The Conservation Commission shall be notified in writing upon commencement and completion of the project and before an occupancy permit is issued. Schedule a final inspection with the Conservation Coordinator upon completion of the project; and,**
- **This permit will expire two years from the date that it is granted by the Planning Board. Refer to Hampton Zoning Ordinance, Section 2.3.5 for information on permit extensions.**

SECOND: Ms. Raymond

VOTE: 6 in favor, 1 abstain (Mr Diener)

MOTION PASSED

- 2. 156 North Shore Road, Ashworth Six LLC, Builder. Wasson Real Estate Development LLC. As-Built Plan reflecting encroachment of walkway pavers and stonewall/fill into the 25' buffer. This is an Amended Town Special Permit.**

Peter Ross, owner of property, stated he is before the Commission to seek forgiveness for putting rocks in a buffer zone. Mrs. Dionne stated that the stone pavers are encroaching the buffer and, at the east side, a stone wall has been constructed that curves into the buffer. She provided a photograph noting the orange flags in the photo are edge of the 25 foot buffer.

Ms. Swank questioned how this happened, noting that plans were most likely provided to the excavator and landscaper. Mr. Ross said the stone was put down because there had to be a walkway behind the house. He said he was not there when the work was being done. He also stated that the decision was made to build on the lot with approved plans, but the plans were not followed.

Mr. Diener noted that the house had to be built outside of the 25 foot buffer and the problem exists because there is now encroachment. Perhaps this could have avoided if the deck had been put on the east side of the house where it would have been further from the buffer edge. There is a problem in that there is a violation of the ordinance and this should be corrected before the house is sold. He also stated that it was not the Commission's decision to have the house built this close to the buffer

Mr. Ross said the property is .88 acres in size and 13,000 feet was buildable; however, if in a different location, they would have had to build a road through the wetlands. He also said he did not put the rocks there intentionally.

Mrs. Dionne stated that the intent was for the stonewall to follow the 25' buffer edge along with the placement of stakes with wetland buffer markers. The encroachment of the stonewall has now created section of fill and lawn area in the buffer which was not approved.

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Mr. Ross said he is not a builder, but assumed the builder knew how to read plans. He also said he was against having the deck on the other side of the building.

Mrs. Dionne noted there has been a lot of discussion and many reasons were given why the deck could not be moved. The wetlands buffer edge, she said, has to be clearly noted and honored.

Ms. Raymond stated that grass pavers could have been used to provide a walkway which would also define the buffer edge. Mrs. Dionne said the markers have to go inside of the buffer, and Mr. Diener stated that the deck goes right to the edge of buffer, as does the house.

Mrs. Dionne stated that one option would be a type of permeable paver as, in the future, the homeowner would want to be able to walk behind their deck. She also noted the stones are substantial in size and perhaps the stone drip edge could be expanded and grass pavers installed.

On question of Mr. Tilton, Mr. Ross stated there is a small door behind the building just to go under the house. There is only a crawl space under the house because the property sits on a ledge.

PUBLIC COMMENT: There was no public comment.

Ms. Raymond said the grade should be brought back to the southern edge of the wall not in the buffer, and the walkway should be a pervious walkway of gravel or grass pavers. Mr. Tilton noted that the stone wall is a good marker, and that the Commission has discussed and offered options for restoration to the original plans. He also suggested a permeable paver walkway defining the edge.

MOTION: Mr. Tilton moved the Planning Board not accept the current As-Built Plan dated November 15, 2014, for the Amended Special Permit for the property located at 156 North Shore Road. Further, the Commission requests the following corrections be made on site to address the encroachment into the 25 ft wetlands buffer:

- **Walkway pavers within the buffer shall be removed and replaced with a permeable material or paver.**
- **Design and manufacture specifications shall be provided to the Conservation Coordinator prior to installation.**
- **The Conservation Coordinator shall inspect the project prior to beginning, during construction and a final inspection will be held when complete.**
- **Reconfigure the stonewall in a way that the stones follow the 25' barrier; and,**
- **The excess fill shall be removed and grades shall be returned to pre-existing conditions.**

SECOND: Ms. Renaud

VOTE: 5 in favor, 2 abstain (Mr. Diener and Mr. Vinther)

- 3. 60-62 Glade Path. Glade Path Condominium Association. Agent – John Drummey. Stabilize the existing earthen slope and protection from erosion using permeable landscape fabric and 4"- 12" stone. This is a NHDES Standard Dredge and Fill application and Town Special Permit.**

Mr. Drummey stated this is a two-unit Condominium and they would like to stabilize and protect their embankment from erosion. He stated he is proposing to put rocks in the back along the berm and marsh with landscape fabric and rip rap to mitigate the problem. He noted the neighbor to the east has a rip rap embankment and he would like to continue on.

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Mrs. Dionne noted there was a question at the site walk about the rip rap going onto Town property. Mr. Drummey stated that he wanted to stay on his property, but the berm has a lower slope which has eroded.

Mrs. Dionne stated it makes sense to continue on with the wall; however, there will be an added step in that the applicant will have to go before the Board of Selectmen for approval. She commented that neighbors have been approved by the Board regarding the use of Town land.

Mr. Bauer, Contractor, stated that there is access on both sides and there will have to be some excavation on the slope so the rip rap will grab into the earth. He proposes digging a trench and filling it with rock so there would be a base at the toe of the slope. It was recommended that there be an agreement to do the work when the earth is frozen for minimal impact. It was suggested that swamp mats be used if the work has to be done in the summer.

Mr. Diener questioned how he would get through the trees, and Mr. Bauer said one may have to be removed, but will be bagged and replanted. Mr. Bauer also said that it would take 2 – 3 days and he would hope to be able to work in February or March. Further, the Wetland Permit Application has been submitted.

PUBLIC COMMENT: There was no public comment.

MOTION: Ms. Renaud moved not to oppose the NHDES Standard Dredge and Fill application for the property at 60-62 Glade Path to stabilize the existing earthen slope and protect it from erosion using permeable landscape fabric and 4"-12" stone, with the stipulations that:

- The work cannot be performed unless the ground is frozen;
- Portable mats be used to protect the wetland vegetation if equipment is used during the growing season; and,
- The Conservation Coordinator be notified at the beginning and end of the project.

SECOND: Mr. Tilton

VOTE: 5 in favor, 2 abstain (Mr. Diener and Mr. Vinther) **MOTION PASSED**

MOTION: Ms. Renaud moved to recommend the Planning Board approve the Town Special Permit for the property located at 60-62 Glade Path to stabilize the existing earthen slope and protect it from erosion using permeable landscape fabric and 4"- 12" stone, with the following stipulations:

- It is preferred that the work be performed while the ground is frozen;
- Portable mats be used to protect the wetlands if equipment is used during the growing season;
- Use of Wetlands Conservation District markers shall be placed at the property line on either side of the building where it intersects the wetland buffer at the owner's expense. The markers may be placed on metal posts or a tree;
- Lawn care must follow guidelines set for in the NHDES Shoreland Protection Act (Env-WQ 1400). No storage of grass clippings or yard waste in the wetland or its buffer;
- Removal of trees that are not dead, diseased, or unsafe must be performed in compliance with the NEDES Shoreland Protection Act, Section ENV-WQ 143.05;
- All proposed plantings shall have at least 75% success after two (2) growing seasons. Any plants that do not survive shall be replanted or replaced with another suitable plant species;

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- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. Silt fence and hay bales (salt hay bales for tidal areas);
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed;
- There are to be no additional structures such as sheds, swimming pools, gazeboes, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Special Permit is required for the erection of any additional structure(s) in the buffer;
- The Conservation Commission shall be notified in writing upon commencement and completion of the project and before an occupancy permit is issued. Schedule a final inspection with the Conservation Coordinator upon completion of the project;
- An As-Built Plan shall be submitted following project completion; and
- This permit will expire two years from the date that it is granted by the Planning Board. Refer to Hampton Zoning Ordinance, Section 2.3.5 for information on permit extensions.

SECOND: Mr. Tilton

VOTE: 5 in favor, 2 abstain (Mr. Diener and Mr. Vinther)

MOTION PASSED

OLD BUSINESS.

Signage. Mrs. Dionne stated that the Board of Selectmen have given their approval to post the five signs requested in the locations which have been determined by the Commission. Mr. Tilton asked that the “No Hunting” signs be taken down, given hunting season is over.

Eco/Green tips. No discussion

Green Infrastructure Subcommittee. Mr. Diener said that conversation may be held with one property owner and one business regarding the Rain Garden Program. DES has a “Soak up the Rain” program and there will be a meeting with them in January. Mr. Diener and Ms. Dionne and Ms. Swank will see if Hampton’s Rain Garden program can be made a part of the DES program. DES may provide financial and design support. Information will be provided at a later date.

Warrant Articles.

Wetland Ordinance Amendment/Administrative changes.

Mr. Diener reported that the administrative changes for the above will go through a second Public Hearing before the Planning Board at their next meeting. He said that the 12-foot restriction is included and was approved.

Mr. Diener also stated that the Warrant Article on the Ice Pond Dam was not recommended by the Board of Selectmen and was removed from the Warrant.

A lengthy discussion ensued on Ice Pond Dam and need for replacement. The design work is complete and was accepted. Funding is needed for the reconstruction. There was discussion on waiting until the 2015 Warrant to put forward the request for the amount of \$90,000 for the reconstruction. It was also discussed as to whether to put this funding request forward as a Petition Warrant Article this year.

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It was noted that the water level is dropping because of the original dam and the beaver dam being breached. Mr. Diener and Mr. Vinther met with people in the area and there is support to restore the dam. One of the interested parties is an attorney who will do some tax-free fund raising, and other interested parties are looking at fund raising Web Sites. Ms. Raymond cautioned that the cost could be \$110,000 next year, up from \$90,000 last year.

Mr. Tilton said he does not want this matter to go on the shelf and suggested a Petition Article this year. It was also noted that the reconstruction is designed, the spillway is wide open, and that money has been put aside to dismantle the dam.

Mr. Vinther commented that two similar Petition Articles (Ice Pond and Grist Mill) will not pass on the ballot. He said there is a lot going on around Mill Pond. He also spoke to public access issues. He stated he wants more conservation land, and not losing any wetlands. He stated that work should be done to rectify the situation. Mr. Vinther also spoke of his concerns with two abutters also being members of this Commission.

Ms. Shaw stated that people could be confusing the issues of Ice Pond and Mill Pond.

Ms. Carnaby stated that from what she understands, once the vote was taken last year, another group of people are making an effort to stop what was going forth and now speaking of preserving the oldest building in Town. She suggested talking with the collective group.

Ms. Raymond stated that we own the Ice Pond Dam, the design has been done, now it has to be replaced, not repaired. She also commented on the lowering of the water level.

MOTION: Ms. Raymond moved to put forward a Petition Warrant Article for the reconstruction of the Ice Pond Dam in the amount of \$90,000.

SECOND: Ms. Shaw

VOTE: 5 in favor, 1 opposed (Mr. Vinther), 1 abstain (Ms. Renaud)

MOTION PASSED

NEW BUSINESS:

1. Mr. Tilton reported that the Board of Selectmen is preparing to appoint a Selectman representative to the Conservation Commission. Mr. Diener stated that he should be receiving information on the above soon.

CONSERVATION COORDINATOR AND CHAIRMAN UPDATES:

1. Mr. Diener reported that the Stowcroft developers are asking the Board of Selectmen for a permit for an access road across Lot B. The Stowcroft proposal will go before the Planning Board in February.
2. Mr. Diener and Mrs. Dionne went to the gun range on the DPW property on Monday. The range abuts the marsh and the DPW is looking to expand the range. Mr. Jacobs, DPW, said the expansion is in the planning stages and explained the proposal. Mrs. Dionne is going to speak with DES regarding their position on the matter. She stated this is a prime wetland and there has been discussion about building berms. Mrs. Dionne also pointed out it is not allowed to open shoot over a wetland. Mr. Jacobs said this is being partially funded with Homeland Security money.
3. Mrs. Dionne reported she did a sea wall inspection and noted that, at times, the base of the walls are exposed while, other times, it is covered because of the sand movement. She said it is difficult to do sea

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wall inspections in that one has to dig down to find a base. She said there should be field verification in order to document, which would be sufficient when doing as-built plans.

Ms. Raymond said, if tied in, the points are still there even if the sand moved. She suggested asking the engineers who are doing the work to identify the points. Mrs. Dionne pointed out permission is not given to bring excavators out to the beach before a project is approved and permits issued. There was further discussion on how to accomplish field verification. Mr. Vinther suggested by I-Phone. Mrs. Dionne said she would check with the Army Corps of Engineers.

4. Mrs. Dionne reported that the NH Association of Natural Resource Scientists dues for \$20.00 per year are due. She asked if the Commission wanted to continue their membership.

MOTION: It was moved by Ms. Raymond to continue membership in the NH Association of Natural Resource Scientists and submit the \$20.00 yearly dues.

SECOND: Ms. Renaud

VOTE: 6 In Favor, 1 abstain (Mr. Diener)

MOTION PASSED

5. Mrs. Dionne reported that, with regard to the property at 377 Ocean Boulevard, which was approved by the Planning Board, that the developer did not change anything in the 50 foot buffer; that there is nothing for the Conservation Commission to review; however the developer did make slight modifications. Further, she felt the Commission would not have changed their recommendations. Mr. Diener stated, and it was agreed, there is no need for the Commission to revisit.

TREASURER's Report. No report this evening.

Ms. Renaud spoke of the League of Conservation Voters which, she said, is doing a lot to educate people on conservation issues. They are interested in talking to the Commission and would like to recruit supporters. Mr. Diener suggested an informal meeting be held after the first of the year.

The Next Conservation Commission Public Hearing will take place on January 27, 2015.

ADJOURN:

MOTION: It was moved by Mr. Tilton to adjourn the meeting at 9:40 p.m.

SECOND: Ms. Raymond

VOTE: 7 in Favor

MOTION PASSED

Respectfully submitted,
Anne Marchand, Recorder